IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Second Appeal No. 635 of 2001
(Old No. 1534 of 1989)

Kohinoor Industries Station Road
Velga Building, Haldwani
District Nainital through
Sri Nanank chand Agarwal
S/o Sri Shanti Swarup **..... Appellant**

Vs

1. M/s Kichha Sugar Company Ltd.
   Kichha District Nainital through
   its Executive Director
2. Executive Director
   M/s Kichha Sugar Co. Ltd.
   Kichha, District Nainital **....Respondents**

Sri Tribuwan Phartiyal, learned counsel for the appellant

Hon'ble B.C Kandpal. J.

This second appeal has been preferred by the plaintiff/appellant against the judgment and decree dated 22.o5.1999 passed by Additional Civil Judge, Nainital in civil Appeal No. 4 of 1989 whereby the appeal filed by the defendant/ respondent was allowed and set aside the judgment and decree dated 02.02.1989 passed by the trial court in Original Suit No. 35 of 1987.

2. Brief facts of the case are that the plaintiff/ respondent filed a suit before Munsif, Nainital for recovery of Rs. 5,464.55 who decreed the suit in favour of the respondent / plaintiff vide Judgment and decree dated 02.02.1989.

3. Feeling aggrieved by the aforesaid judgment , the defendant / respondent preferred an appeal before the first appellate court which was allowed by the appellate court vide judgment and order dated 22.05.1989.

4. Feeling aggrieved by the aforesaid judgment and decree, this second appeal has been preferred by the plaintiff/appellant.

5. Having considered the arguments advanced by the learned counsel for the appellant and after perusal of the evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

6. The second appeal lacks merit and is liable to be dismissed.

7. Accordingly, the second appeal is dismissed in - limine.

(B.C. Kandpal, J.)

12.10.2006
ASWAL